

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TU D. LU,

No. C 16-03873 WHA

Plaintiff,

v.

JUDGE MARK A. TALAMANTES,

Defendant.

**ORDER DENYING
MOTION FOR LEAVE
TO AMEND AND
DISMISSING CASE**


An order adopted the report and recommendation of Magistrate Judge Maria Elena James dismissing *pro se* plaintiff Tu D. Lu's complaint (Dkt. Nos. 6, 10). The order allowed Lu to seek leave to amend. Lu filed a "Motion to Amend Claims in Complying with the Court's Order," but failed to address the issues set forth in the report and recommendation (Dkt. No. 11).

Construing the motion as a proposed amended complaint, it still suffers from the same deficiencies. To the extent Lu's claims are directed at Judge Talamantes, they are barred by absolute immunity. *See Chavez v. Robinson*, 817 F.3d 1162, 1167 (9th Cir. 2016) *as amended on reh'g* (Apr. 15, 2016). To the extent Lu's claims are a de facto appeal of Judge Talamantes's decision, this court lacks subject matter jurisdiction. *See Maldando v. Harris*, 370 F.3d 945, 949 (9th Cir. 2004).

1 Plaintiff's motion for leave to amend is **DENIED**, and the case is hereby **DISMISSED**.
2 Judgment will follow. The Clerk shall please **CLOSE THE FILE**.

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4 **IT IS SO ORDERED.**

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6 Dated: September 2, 2016

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9 WILLIAM ALSUP
10 UNITED STATES DISTRICT JUDGE
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